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Natalie J. Spears
natalie.spears@dentons.com
D +1 312-876-2556

Dentons US LLP
233 South Wacker Drive
Suite 5900
Chicago, IL 60606-6361
United States

dentons.com

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BY ECF

Honorable P. Kevin Castel
United States District Court, S.D.N.Y.
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Courtroom 11 D
New York, NY 10007

Re: *Fairstein v. Netflix, Inc. et al*, No. 20-cv-8042 (PKC)
Defendants' Response to Plaintiff's 11/17/22 Pre-Motion Letter to Strike Berry Welsh's
Declaration and Preclude

Dear Judge Castel:

We represent Defendants Netflix, Inc., Ava DuVernay and Attica Locke. This letter is submitted in response to Plaintiff's November 17, 2022 Pre-Motion Letter. Defendants oppose Plaintiff's anticipated Motion to Strike the declaration of Berry Welsh submitted in support of Defendants' Motion for Summary Judgment. As Defendants' opposition will detail, Mr. Welsh's declaration is not "expert opinion" under Federal Rule of Evidence 702, nor does the case law cited by Plaintiff support her request to strike his declaration. Plaintiff's Motion to Strike is merely an attempt to strike testimony with which she does not agree from a fact witness, Mr. Welsh, who was disclosed over a year ago, but whose deposition Plaintiff affirmatively chose not to take (after initially telling Defendants she intended to depose Mr. Welsh).

The briefing schedule Plaintiff proposes in her Pre-Motion Letter to the Court is acceptable to Defendants.

Respectfully Submitted,

By: /s/ Natalie J. Spears

Sandra D. Hauser
Justin N. Kattan
1221 Avenue of the Americas
New York, New York 10020
Phone: (212) 768-6802

Natalie J. Spears (*pro hac vice*)
Gregory R. Naron (*pro hac vice*)
Jacqueline A. Giannini (*pro hac vice*)
DENTONS US LLP
233 South Wacker Drive, Suite 5900
Chicago, Illinois 60606
Phone: (312) 876-8000

*Attorneys for Defendants Netflix, Inc.,
Ava DuVernay and Attica Locke*